

REMARKS

The Office Action and the cited and applied references have been carefully reviewed. No claim is allowed. Claims 16-18, 23, 25, 26, 34 and 35 presently appear in this application and define patentable subject matter warranting their allowance. Claims 17, 18 and 25 are only objected to as being dependent from a rejected base claim but would be allowable if rewritten in independent form. Reconsideration and allowance are hereby respectfully solicited.

Withdrawn and nonelected claims 27-33 are cancelled without prejudice to refiling in a divisional application.

Claims 23 and 26 have been rejected under 35 U.S.C. §112, second paragraph, as being indefinite. Appropriate correction is made to claim 23, thereby obviating this rejection.

Reconsideration and withdrawal of the rejection are therefore respectfully requested.

Claims 16, 20, 21, 34 and 35 have been rejected under 35 U.S.C. §112, first paragraph, because the examiner states that the specification, while being enabling for isolated nucleic acids that encode a polypeptide that comprises the amino acid sequence of SEQ ID NO:2, or for nucleic acids consisting of nucleic acid sequences that encode SEQ ID NO:8, or for specific nucleic acids consisting of the sequences of SEQ ID NOs:5-7 and 8, 11, 13, 15, 17, 19, 21 and 23 does not reasonably provide

enablement for the nucleic acids encoding a polypeptide that is a variant of human Rgr consisting of an amino acid sequence with at least 98% sequence identity to SEQ ID NO:2, or comprises the nucleic acid sequences of SEQ ID NOs:5-7.

This rejection is believed to be obviated by the cancellation of claims 20 and 21 without prejudice and the amendment of claim 16 to replace "An isolated nucleic acid comprising" with the closed language "An isolated nucleic acid consisting of" and to delete recitation of the variant polypeptide of at least 98% sequence identity to SEQ ID NO:2. Applicants presume from the examiner's comments regarding enablement of nucleic acids consisting of SEQ ID NOs:5-7, 9, 11, 13, 15, 17, 19, 21 and 23 that there is also enablement for the amino acid sequences SEQ ID NOs: 10, 12, 14, 16, 18, 20, 22 and 24 encoded by the above enabled nucleic acids. Accordingly, claims 16, 34 and 35 are enabled to one of skill in the art.

Reconsideration and withdrawal of this rejection are therefore respectfully requested.

Claims 16, 20 and 21 have been rejected under 35 U.S.C. §112, first paragraph, as failing to comply with the written description requirement. The cancellation of claims 20 and 21 without prejudice and the amendment to claim 16 to amend the transitional language to the closed "consisting of" and to delete

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recitation of the variant polypeptide of at least 98% sequence identity to SEQ ID NO:2 obviates this rejection.

Reconsideration and withdrawal of this rejection are therefore respectfully requested.

Claims 16 has been rejected under 35 U.S.C. §102(e) as being anticipated by Penn et al., WO 01/57278. The examiner states that Penn teaches nucleic acid molecules that comprise SEQ ID NO: 5, 6 or 7. This rejection is obviated by the amendment to claim 16 to replace "comprising" with "consisting" in the transition from preamble to the body of the claim.

Reconsideration and withdrawal of the rejection are therefore respectfully requested.

Claims 16, 20 and 21 have been rejected under 35 U.S.C. §102(b) as being anticipated by Accession No. AAA97456 (in WO 200155163). The examiner states that Accession No. AAS34856 "comprises" subsequences of SEQ ID NO:2 and therefore teaches polynucleotides within the scope of the claims. This rejection is also obviated by the cancellation of claims 20 and 21 without prejudice and by the amendment to claim 16 to instead use the closed "consisting of" language.

Reconsideration and withdrawal of the rejection are therefore respectfully requested.

Claims 16, 20, 21, 23, 34 and 35 have been rejected under 35 U.S.C. §102(e) as being anticipated by Tang, WO

01/53312. This rejection is obviated by the cancellation of claims 20 and 21 without prejudice and by the amendment to claim 16.

Reconsideration and withdrawal of the rejection are therefore respectfully requested.

Claims 16 and 23 have been rejected under 35 U.S.C. §102(b) as being anticipated by either Adams (Accession No. AA311687) or Hedge (Accession No. AW962844). The examiner states that claims 16 and 23 read on isolated nucleic acid molecules comprising a nucleotide sequence encoding for a polypeptide selected from the group consisting of SEQ ID NO: 10, 12, 14, 16, 18, 20, 22 or 24. This rejection is obviated by the amendment to claim 16. As the nucleic acid is now recited in the claims as consisting of the nucleotide sequence encoding for SEQ ID NO:22 or SEQ ID NO:10, among others, neither Adams' or Hedge's sequence which comprises more than a nucleotide sequence encoding SEQ ID NO:22 or 10 anticipates amended claim 16 (and claim 23 dependent therefrom).

Reconsideration and withdrawal of the rejection are therefore respectfully requested.

Claims 16 and 23 have been rejected under 35 U.S.C. §102(b) as being anticipated by Accession No. BI837800 (NIH-MGC). The examiner states that NIH-MGC teaches nucleic acids that encode SEQ ID NO:20 and 14. This rejection is obviated by the

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amendment to claim 16. As the nucleic acid is now recited as consisting of the nucleotide sequence encoding SEQ ID NO:22 or 14, among others, Accession No. BI837800 which comprises more than a nucleotide sequence encoding SEQ ID NO:20 or 14 cannot anticipate amended claim 16 (and claim 23 dependent therefrom).

Reconsideration and withdrawal of the rejection are therefore respectfully requested.

In view of the above, the claims comply with 35 U.S.C. §112 and define patentable subject matter warranting their allowance. Favorable consideration and early allowance are earnestly urged.

Respectfully submitted,

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